S.B.CIVIL WRIT PETITION NO.352/2006
(Raju Das Vs. Rent Control Tribunal,Jodhpur & others)

Date of order : 17th May 2006

HON'BLE MR.JUSTICE DINESH MAHESHWARI

Mr.M.S.Purohit for the petitioner

Mr.Ashok Patel) for the respondents
Ms. Raj Laxmi Choudhary)

Although the petitioner has moved an application seeking preponing of the date with the submissions that the date for hearing before the Tribunal is fixed today, Mr.Ashok Patel has put in appearance for the contesting respondents No.2 and 3; with the consent of learned counsel for the parties, the matter has been heard finally today itself.

This writ petition has been submitted against the order dated 20.11.2004 passed by the Rent Tribunal, Jodhpur in case No.51/2004 refusing an application filed by the petitioner seeking cross-examination of the deponents who have submitted affidavits in support of the petition for eviction. Learned counsel Mr.Ashok Patel appearing for the contesting respondents submits that though the petitioner has only attempted to elongate the proceedings and has

moved vague and uncertain application, yet having regard to the decisions rendered by this Court in different cases including those in Aasandas Vs. State of Rajasthan: 2005(1) DNJ (Raj.) 431 and Mahmud Khan Vs. State of Rajasthan and others : 2006 (1) RDD 71 (Raj.), the contesting respondents do not as such seek to contest the prayer for cross-examination of the deponent, however the application (Annex.3) moved by the petitioner remains wholly vague and uncertain and the petitioner (non-applicant) has failed to come out with specific application spelling out cogent reasons for cross-examination and the essentials to be proved or disproved on which cross-examination was desired to be undertaken. Learned counsel Mr.Purohit appearing for the petitioner submits that in this regard, the petitioner is moving an application afresh today itself before the Tribunal and the Tribunal may consider the same on its merit. Learned counsel Mr.Patel has no objection in this course being adopted.

Having examined the respective pleadings taken by the parties as produced on record and in view of the submissions made by learned counsel for the parties, this Court is of opinion that interest of justice would meet if the impugned order is set aside and the Tribunal is directed to deal with the prayer of cross-examination as now being made by the petitioner by way of an application to be filed today with further observation that in case the Tribunal considers it

proper to permit cross-examination of the deponents, the petitioner shall be afforded one opportunity to carry out the cross-examination and the non-petitioners (eviction petitioners) shall be keep all the witnesses present before the Tribunal on the date to be fixed; and no adjournments for the purpose of cross-examination shall be granted to the petitioner.

As a result of the aforesaid, this writ petition succeeds to the extent and in the terms indicated above; the impugned order dated 20.11.2004 (Annex.4) is set aside; fresh application being moved by the petitioner for the purpose of cross-examination of the deponents shall be dealt with by the Tribunal in accordance with law keeping in view the observations made hereinabove. There shall be no order as to costs of this writ petition.

(DINESH MAHESHWARI),J.

MK